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December 21, 2017

To: Mono County Planning Commission

From: Michael Draper, CDD Planning Analyst
Wendy Sugimura, CDD Senior Analyst

Re: WORKSHOP – Cannabis Land Use Regulations

RECOMMENDATION

Receive workshop presentation, and provide any desired direction to staff.

FISCAL IMPACT

No impact.

BACKGROUND

At the October 19, 2017 meeting, the Commission conducted a public hearing and adopted Resolution 17-01, recommending the Board of Supervisors approve General Plan Amendment (GPA) 17-03 for the proposed revisions to the Land Use Element and Conservation/Open Space Element for commercial cannabis activities, and find that the proposed amendment is consistent with the County General Plan and applicable area plans.

The Board of Supervisors approved the Commission's recommendation, except additional facilities were included for establishing buffer zones prohibiting commercial cannabis activities. The final policy reads as follows:

Action 1.L.3.a. Commerical cannabis businesses shall not locate within 600' of any of the following facilities that exist at the time the application is accepted: schools providing instruction to kindergarten or any grades 1 through 12, day care center or youth center, parks, ballfields, playgrounds, libraries, community centers, and licensed child care facilities.
See "Attachment 1 - GPA 17-02"

In addition, the Board discussed personal cultivation requirements, determined a specific permit was not desired, and directed staff to instead define standards, or best management practices, for personal cultivation. Standards or best management practices would be in addition to the State requirements and could help educate residents and deter neighbor nuisance issues. If a nuisance were to arise Code Compliance would have reasonable guidelines to enforce the issue.

The following item on the Board agenda was to discuss necessary next steps for County staff to take in the development of the cannabis regulatory program. The Board agreed to decline

temporary licensing in order for staff to expedite a complete regulatory program. The Board also set a target date of March 2018 for staff to return with a draft regulatory program for review.

Finally, the State issued emergency regulations on November 16, 2017, governing commercial cannabis activities legalized under state law. The new regulations comprise over 300 pages, and are available at <https://cannabis.ca.gov/regulations-legislation/>. Staff has been reviewing the regulations to ensure compatibility and coordination with local regulations and procedures, and fact sheets from the state are provided in Attachment 2.

DISCUSSION

The intent of this workshop is gather Commissioners' input for the draft regulatory program on land use designations and regulations that would typically be identified at the "zoning code" level of detail.

Land Use Analysis

In a previous exercise by Community Development, land use designations were analyzed to determine compatibility with commercial cannabis operations. The analysis was provided to the Commission at the October 19, 2017 meeting. Based on the existing permitted uses the following land use designations were determined compatible with certain cannabis operations:

- Agriculture: Cultivation, Nursery, Microbusinesses (includes cultivation, retail, manufacturing, and distribution as an accessory use to a bona fide agricultural operation)
- Commercial: Retail
- Service Commercial: Retail, Distribution, Manufacturing
- Mixed Use: Retail
- Industrial: Cultivation, Nursery, Manufacturing, Testing, Retail, Distribution, Microbusiness
- Industrial Park: Cultivation, Nursery, Manufacturing, Testing, Retail, Distribution, Microbusiness

It has not been determined as to whether or not to allow Manufacturing, Distribution, and/or Testing within Commercial designations, and Manufacturing and/or Testing within Mixed Use designations. The County may prohibit any license type from taking place on any land use designations.

The Manufacturing license has four different types which could potentially all take place at the same location: Type 7, extraction using volatile solvents; Type 6, extracting using a non-volatile solvent or mechanical method; Type N, infusions; and Type P, packaging and labeling only.

The Distribution license arranges for testing, checks for appropriate packaging and labeling, collects taxes, transports cannabis and cannabis products, and may act as a wholesaler.

A new permit type is also under development that would provide for a discretionary approval specific to the owner and based on the operation of the activity, as well as providing for annual renewals, inspections, fees, caps, and adjustments to regulations. A similar permit type may be needed for short-term rental uses in single-family units in June Lake. The mechanism currently used by the County does not address these issues, and could be refined given the potential for more approvals specific to the owner and the operation of the use. This new permit type could be brought forward with either the June Lake short-term rental policies or these cannabis regulations.

Policy Questions

The following policy questions have been identified as having a significant impact in the development of County cannabis regulations. Due to the nature of the questions, staff is asking for specific direction from the Commission.

1. Finalizing Activities Permitted within Land Use Designations

A final determination has not been made on whether to allow Manufacturing, Distribution, and Testing within Commercial designations, and Manufacturing and Testing within Mixed Use designations. These activities in particular do not seem to match well with any of the existing permitted uses in the land use designation, and may not be uses compatible with encouraging active retail frontages and main streets. One possibility could be to limit these uses to locations that are not on the ground floor of main street frontages.

In addition, the Manufacturing category contains three permitting types. While Type N, infusions, and Type P, packaging and labeling only, may be compatible with Commercial and Mixed Use designations if not located on the ground floor on main street frontages, Type 6 and 7 licenses appear not to be consistent with existing uses in these designations and should be limited to Industrial and Industrial Park designations.

2. Manufacturing- Type 7: Extraction using volatile solvents

Volatile manufacturing is the process of cannabis extraction using volatile solvents such as butane, hexane, and pentane. Licensed by the California Department of Public Health (CDPH) Manufactured Cannabis Safety Branch, volatile operations must follow good manufacturing practices to ensure production occurs in a sanitary and hazard-free environment, products are contaminant free and THC levels are consistent throughout the production and within required limits. CDPH requires a written procedure for inventory control, quality control, transportation, security and cannabis waste disposal annually. A closed-loop system certified by a California-licensed engineer is required, and the local fire code official must certify operations in order to receive the state license.

A volatile manufacturing facility must also meet California Building Code requirements "Factory Group F1/F2". If an applicant were to construct a new structure, or retrofit an existing structure, he/she would be required to apply for a building permit initiating Community Development's existing protocol for review. A California Building Code compliance review would take place by Community Development's third-party reviewer, Interwest, who has the capacity to complete this review. Cost of review is passed onto the applicant.

The "Factory Group F1/F2" building code sets allowed control amounts of hazardous materials specific to the type of construction and building. Additionally, the Fire Code identifies hazardous materials and lists control amounts based on the building type and size for "Factory Group F1/F2".

Typical application documentation would include, but is not limited to, architectural details, structural calculations, fire separation, fire sprinklers, necessary fire safety apparatus (exit signs, fire extinguisher, carbon dioxide monitor, etc.), and requirements held by the Public Health Code for commercial kitchens (if the facility is proposing to create cannabis-edible products).

Limited feedback from local fire chiefs indicate the fire protection districts have few concerns. In addition, other state and county requirements may be triggered beyond those described above.

3. Limiting the number of operations

There has been interest and consideration to limiting the number of operations the County would permit to manage staff workloads and resource requirements, and ensure sufficient monitoring and enforcement to meet the new regulations and the intent of the Cole Memo. Given the required land use designation and distance requirement from schools, etc., appropriate locations are already restricted within communities. Establishing a buffer between permitted activities would further limit availability of locations and render a numerical cap unnecessary. The Town of Mammoth Lakes currently has a 500-foot buffer between medical dispensaries in place, and is considering extending that buffer to adult-use cannabis retail activities.

An outright cap on the number of cultivation permits to issue has also been expressed, as more land in an appropriate designation (AG) is available for cultivation compared to other cannabis activities.

4. Annual renewals

The State departments issuing cannabis permits require an annual license renewal. There is interest within the County to also require a license renewal in order to ensure compliance and accountability, and address any new requirements. An annual renewal process could include inspections by Code Compliance (for permit), inspections by Building (for building codes), and Sheriff (for safety plan), and compliance with all other County requirements (business license, Environment Health, etc.). Anticipated staff time for this program is unknown, but the renewal cost would be passed onto the applicant.

Topics for specific regulations

In order to meet the Board of Supervisors' request of presenting a draft regulatory program in March 2018, the Commission must provide finalized recommendations at the February 15, 2018 meeting. To meet our goal, staff would like direction from the Commission regarding specific issues to address and/or regulations needed.

The following are land use topics that have been discussed in public meetings or previous meetings with the Commission and/or Board. Assessing these topics and drafting reasonable requirements will be vital for a successful cannabis regulatory program.

- ❑ Setbacks: Action 1.L.3.b. Commerical cultivation activities to prevent odor nuisance and visual/aesthetic issues, and enhance security. Options:
 - Setback from property lines
 - Setback from existing habitable space under separate ownership
 - Setbacks for Indoor operations

- All cannabis cultivation shall be setback 100' from any existing offsite residence, swimming pool, patio, or other living area of separate ownership (San Luis Obispo Co.)
 - Setbacks for Outdoor operations
 - 25' from all property lines (Tuolumne Co.)
 - 50' from all property lines (Mariposa Co.)
 - 50' from the upland extent of riparian vegetation of any watercourse (San Luis Obispo Co.)
 - 100' from an occupied residential structure on an adjacent parcel (Butte & Sonoma Co.)
 - 300' from the property lines of the site (San Luis Obispo Co.) and recommended by the County's consultant, HdL.
 - Setbacks based on parcel size
 - (Tehama Co.) If the premises is twenty (20) acres in size or less, each cultivation building or area shall be set back at least 100 feet from all boundaries of the premises, unless the enforcing officer or the Board of Supervisors reduces or waives this requirement based upon a finding of unusual hardship.
 - If the premises is greater than twenty (20) acres in size but less than one hundred and sixty (160) acres in size, each cultivation building or area shall be set back at least 300 feet from all boundaries of the premises.
 - If the premises is one hundred and sixty (160) acres or greater in size, each cultivation building or area shall be set back at least 1,000 feet from all boundaries of the premises.
 - (Butte Co.) If the premises is one-half (0.5) of an acre in size or less, each detached structure shall be set back at least 15' from all boundaries of the premises; greater than 0.5 acre but less than 5 acres, each detached structure or outdoor area shall be set back at least 50' from all boundaries; premises equal to or greater than 5 acres but less than 10 acres, 75'; 10 acres or greater, 150' from all boundaries. The Director of the Department may waive or reduce the requirement based upon a finding of unusual hardship for that parcel.
 - Setbacks based on cultivation size/area
- Visual Screening: Action 1.L.3.c. Apply visual screening and other treatments to prevent attractive nuisance issues related to aesthetics and security, such as theft, exposure of minors and attraction of the criminal element. Options:
 - Fencing
 - Not required
 - Require fencing for parcels less than 5 acres (Sonoma and Butte Co.)
 - Opaque fence
 - At least 6' in height
 - Or a height sufficient to conceal the cannabis from view
 - Adequately secure to prevent unauthorized entry
 - The fence must include a lockable gate(s) that is locked at all times
 - Bushes or hedgerows shall not constitute an adequate fence.
 - Use of brushes or hedgerows allowed as a fence (on parcels 5 acres or more), or in addition to a fence.

- “Cannabis plants shall not be easily visible from offsite. Fencing around the cultivation should be solid wood or masonry not taller than 6’6”. Will allow cyclone type fencing or hog wire with fabric screening on the inside to prevent the cultivation from being seen. The gate must be locking. Plants must not be visible from outside the fence. They should be covered with shade cloth.” (San Luis Obispo Co.)
 - “Area where cannabis is cultivated shall be screened from public view adjacent to the premises by fencing, structures or vegetation.” (El Dorado Co.)
 - Signage: Limit or prevent certain words (marijuana, cannabis) and/or symbols (cannabis leaf) from being visible from the public right of way. Under state law, cannabis products are not allowed to be visible from the public right of way.
- Limiting odor nuisances: generally provided by requiring activities occur indoors or by establishing larger setbacks.
- Security Plan: Action 1.L.3.f. To ensure security, safety, and prevent access by minors and the criminal element, a Security Plan shall be required and subject to approval by appropriate law enforcement and code enforcement entities.
 - State requirements set for Distribution, Testing, Retail, Manufacturing
 - Certified by the Sheriff’s Department
 - (Town of Mammoth Lakes) “A security plan outlining the proposed arrangements for ensuring the safety of persons and for protecting the premises from theft. The plan shall include, as a minimum, installation of security cameras, continuous operation of a robbery and burglary alarm system monitored by a state-licensed operator, and an annual written security assessment of the site by a qualified professional. The security plan must also include a lighting plan showing exterior and interior lighting that will be implemented to provide adequate security and comply with all town standards regarding lighting design and installation.”
 - (Desert Hot Springs)- A security plan that addresses how the following measures shall be implemented or complied with:
 - Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the city manager or designee. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Sheriff or designee.
 - The cannabis facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the Sheriff or designee that is operated and monitored by a recognized security company, deemed acceptable by the Sheriff or designee. Any change in the security company shall be subject to the approval of the city manager or his designee. All current contact information regarding the medical marijuana facility's security company shall be provided to the Sheriff or designee.

- Entrance to the dispensing or cultivation areas and any storage areas shall be locked at all times, and under the control of medical marijuana facility staff.
- All cannabis shall be securely stored, and a reliable, commercial alarm system shall be installed and maintained where the cannabis is secured.
- A licensed security guard, licensed by the California Department of Consumer Affairs, shall be present at the cannabis facility during all hours of operation. If the security guard is to be armed, then the security guard shall possess at all times a valid Security Guard Card and Firearms Permit issued by the California Department of Consumer Affairs.
- (La County) Dispensaries shall provide security as follows: an adequate and operable security systems that includes security cameras and alarms to the satisfaction of the Director or Regional Planning; and at least one licensed security guard present at the dispensary at all times during business hours. All security guards must be licensed by the proper authorities and must possess a valid Security Guard identification card issued by the Department of Consumer Affairs at all times.
- Background checks (similar to Town of Mammoth Lakes): Required for business owner, property owner, and managers, and require LiveScan for all other employees, with the authority of the Sheriff to disqualify employees based on their record.
- Discussion on any issues such as operating hours, waste disposal, product delivery and export, enforcement, etc., that should be further regulated or have additional requirements imposed.

ATTACHMENTS:

1. GPA 17-02
2. State Department Fact Sheets on Cannabis Regulations

Mono County Board of Supervisors Resolution 17- ____ – Exhibit A
GPA 17-03: Commercial Cannabis Policies

*Note: Text in *italics* denotes existing and currently adopted General Plan language, which is provided for context and clarity.

LAND USE ELEMENT: Countywide Policies

Goal 1 (Existing). Maintain and enhance the environmental and economic integrity of Mono County while providing for the land use needs of residents and visitors.

Objective 1.G (Existing). Protect open space and agricultural lands from conversion to and encroachment of developed community uses.

Policy 1.G.1 (Existing). Protect lands currently in agricultural production.

Action 1.G.1.a. Designate large parcels in agricultural use as “Agriculture,” and streamline re-designations for agricultural purposes by processing a discretionary permit (when applicable) concurrently with the land use designation change.

Objective 1.L. Provide for commercial cannabis activities in Mono County in a way that protects public health, safety, and welfare while also taking advantage of new business and economic development activities.

Policy 1.L.1. Amend land use designations to specify where commercial cannabis activities may be permitted in conjunction with the appropriate permits based on a conformance analysis considering whether the activities are “similar and not more obnoxious or detrimental to the public health, safety, and welfare” than the uses presently listed for the same designation.

Action 1.L.1.a. Where deemed necessary, provide specific adjustments via area plans, when consistent with this general plan, in order to provide for a balanced and functional mix of land uses (see LUE Objective 1.C. and Antelope Valley Action 4.A.2.d.).

Action 1.L.1.b. Provide consideration for certain low-impact manufacturing uses, such as edibles and packaging/labeling, to be identified as substantially similar in use to food-service establishments or retail/service trades, despite falling under a single state license type that includes more traditional manufacturing uses, such as extraction.

Action 1.L.1.c. Given the uncertainties inherent to a new regulatory program and its application to a recently legalized industry, retain flexibility to address site-specific issues, unique needs, and public noticing and input by requiring all cannabis activities be subject to a discretionary permit, a public hearing, and the California Environmental Quality Act (CEQA), and allow the County to continue developing a regulatory system for

future Board adoption and implementation, which provides for limited permitting of cannabis activities and preserves options for the County in the future.

Action 1.L.1.d. To ensure regulatory compliance and assure responsible operations, permits and approval conditions may contain requirements for annual renewals and inspections, or other requirements, and associated fees.

Policy 1.L.2. Personal cannabis cultivation of six plants or less, as legalized and regulated by State law, should be conducted in a manner that respects neighbors and community character, and protects against potentially detrimental issues such as the criminal element, access by minors, and general nuisance issues.

Action 1.L.2.a. Personal cannabis cultivation is required to comply with all state regulations, including the California Building Code for any new construction or alterations/modifications to existing structures.

Action 1.L.2.b. Personal cannabis cultivation is subject to the Nuisances and Hazards provisions in Chapter 4 of this General Plan, and any other applicable General Plan policies and County codes.

Action 1.L.2.c. All personal grows shall comply with State requirements.

Action 1.L.2.d. Provide educational “best practices” for personal cultivation to prevent impacts to neighbors and the community.

Policy 1.L.3. Avoid, reduce, and prevent potential issues specific to commercial cannabis activities that may adversely affect communities.

Action 1.L.3.a. Cannabis businesses shall not locate within 600' of any of the following facilities that exist at the time the application is accepted: schools providing instruction to kindergarten or any grades 1 through 12, day care center or youth center, parks, ballfields, playgrounds, libraries, community centers, and licensed child care facilities. An additional corridor of exclusion applies in Crowley Lake on Crowley Lake Drive between the library/park (3627 Crowley Lake Drive) and the ballfield (526 Pearson Road) to protect minors that may be traveling between these attractions.

Action 1.L.3.b. Apply increased setbacks to commercial cannabis cultivation activities to prevent odor nuisance and visual/aesthetic issues, and enhance security.

Action 1.L.3.c. Apply visual screening and other treatments to prevent attractive nuisance issues related to aesthetics and security, such as theft, exposure of minors, and attraction of the criminal element.

Action 1.L.3.d. Outdoor lighting shall meet Chapter 23 – Dark Sky Regulations (including in Antelope Valley), and requirements for indoor lighting shall similarly prevent nuisances caused by unnecessary light intensity, direct glare, and light trespass, and protect the ability to view the night sky by restricting unnecessary upward projection of light, and prevent impacts to wildlife species attracted to light sources.

Action 1.L.3.e. Regulations shall provide for the limitation of odor nuisances for adjacent uses, which may include, but are not limited to, increased setbacks, minimum distances from existing structures under separate ownership, odor control filtration devices, and ventilation requirements.

Action 1.L.3.f. To ensure security, safety, and prevent access by minors and the criminal element, a Security Plan shall be required and subject to approval by appropriate law enforcement and code enforcement entities.

Action 1.L.3.g. To ensure commercial cannabis activities are compatible with the scenic and natural landscape of Mono County, implement applicable requirements related to the California Environmental Quality Act (CEQA), and policies in the Conservation/Open Space Element, including sage-grouse mitigation measures (see C-OS, Action 2.A.3.e.).

Policy 1.L.4. In recognition of the potential economic benefits of this new industry, encourage the responsible establishment and operation of commercial cannabis activities.

Action 1.L.4.a. Provide a balanced and functional mix of land uses where commercial activities are permitted such that there is an opportunity for the private sector to establish the complete economic business supply chain, e.g. from nursery and cultivation to final point of sale.

Action 1.L.4.b. Economic benefits to the County include cost recovery from permit fees and increased revenue from taxes; therefore, the County should seek full cost recovery for services rendered and place a tax measure on the next available ballot.

Policy 1.L.5. Work toward consistent and compatible regulations and efficient oversight of cannabis activities with other responsible entities, from the state level, to local level, to other Mono County Departments.

Action 1.L.5.a. Stay informed of State activities and requirements related to commercial cannabis, including not only the licensing authorities of the Bureau of Medical Cannabis Regulation, CalCannabis Cultivation Licensing, and Office of Manufactured Cannabis Safety, but also associated agencies such as the Lahontan Regional Water Quality Control Board, California Department of Fish and Game, California Building Standards Commission, and others.

Action 1.L.5.b. Coordinate with local agencies and districts, such as fire districts, water providers, and other service providers, and other local jurisdictions, such as Inyo County and the Town of Mammoth Lakes, as needed.

Action 1.L.5.c. Coordinate oversight activities with other applicable County departments, such as the Inyo-Mono Agricultural Commissioner's office, Environmental Health, Mono County Sheriff, and others as needed.

Action 1.L.5.d. Ensure consistency with local area plans, and adjust area plans where appropriate to reflect community circumstances, preferences and priorities.

LAND USE ELEMENT: Antelope Valley Policies

GOAL 4 (Existing). Provide for orderly growth in the Antelope Valley in a manner that retains the rural environment, and protects the area's scenic, recreational, agricultural, and natural resources.

Objective 4.A (Existing). Guide future development to occur within the US 395 corridor and existing communities.

Policy 4.A.2 (Existing). Provide for a mix of residential, commercial, recreational, institutional, and industrial park land uses in a manner consistent with the overall goal for the Antelope Valley.

Action 4.A.2.d. To promote main street and economic development as provided by other policies (Objectives 4.D. and 4.E.), emphasize commercial character and uses on US 395/main street frontages in the Mixed Use (MU) designation.

CONSERVATION/OPEN SPACE ELEMENT: Biological Resources

Add to the bulleted list under Action 2.A.3.e.: To protect nesting and brood-rearing habitat, agricultural cultivation shall not disturb or remove sagebrush habitat within three miles of an active lek, or as determined through an informal consultation process with applicable Bi-State Conservation partners.



BUREAU OF CANNABIS CONTROL

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

ALL BUREAU LICENSES

■ Temporary License – Allows for Operations while Annual License Application is Pending

- A temporary license allows a business to engage in commercial cannabis activity for a period of 120 days.
- The Bureau can only issue a temporary license if the applicant has a valid license, permit, or other authorization issued by the local jurisdiction in which the applicant is operating.

■ Annual Licenses

- All commercial cannabis activity shall be conducted between licensees.
- There is no specific number limit to the licenses that may be held by an applicant. There is no restriction on the types of cannabis licenses a person can hold, except a person who holds a testing laboratory license is prohibited from licensure for any other commercial activity.

- An annual license issued by the Bureau is valid for 12 months from the date of issuance and may be renewed annually.

■ Local Compliance Verification

- If the applicant provides a local license, permit, or other authorization, the Bureau will contact the local jurisdiction to verify the information and will allow at least 10 days for the jurisdiction to respond before issuing the license, unless a response is received from the local jurisdiction sooner.
- If an applicant for an annual license does not provide a local license, permit, or other authorization, the Bureau will contact the local jurisdiction to verify that issuing the license would not violate a local ordinance or regulation. After 60 days, if there is no acknowledgement by the local jurisdiction, the Bureau shall presume the applicant is in compliance and may issue a license.

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

■ License Type Designation

- Licensees must hold an A-license to engage in adult use commercial cannabis activity and an M-license to engage in medicinal commercial cannabis activity. The exception is testing laboratories, which may test cannabis goods for both license types.

■ Ownership

- An owner is a person who: holds at least 20 percent aggregate ownership interest in a commercial cannabis business; is a chief executive officer or member of the board of directors of a non-profit; or will be participating in the direction, control, or management of the entity applying for licensure.
- Owners must submit fingerprints, information regarding any criminal convictions, and disclose whether they have a financial interest in any other commercial cannabis business licensed under MAUCRSA.

■ Priority Licensing

- Priority application review will be provided for annual licenses only.
- To be eligible for priority licensing, an applicant must be able to demonstrate that the business was in operation and in good standing with the local jurisdiction by September 1, 2016.

■ Premises Requirements

- Applicants must identify the designated structure(s) and real property under the control of the applicant or licensee where commercial cannabis activity will take place.
- Each license must have a separate licensed premises, unless all of the following requirements are met:
 - ◆ A licensee holds both an M-license and A-license for the identical type of commercial cannabis activity;
 - ◆ The licensee holding both licenses is identical in name, business formation, and ownership;
 - ◆ The licensee only conducts one type of commercial cannabis activity on the premises;
 - ◆ All cannabis and cannabis products are clearly marked with an “M” or “A”; and
 - ◆ Records are kept separately for each license and clearly indicate the records are related to the M-license or A-license.
- Security measures are required at licensed premises. Measures include:
 - ◆ Employee badges, designated limited-access areas, and security personnel.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- ◆ 24-hour video surveillance for areas containing cannabis and cannabis products as well as all entryways and exits. Retailers must also have video surveillance in point-of-sale areas and security personnel.
- ◆ Alarm systems, commercial grade locks, and secure storage of cannabis and cannabis products.
- All employees of the licensee must be at least 21 years old.

■ Cannabis Waste

- Cannabis waste must be contained in a secured waste receptacle or secured area on the licensed premises.
- Licensees may not sell cannabis waste and must comply with all applicable waste management laws.

■ Labor Peace Agreement

- Applicants for a license with more than 20 employees must either:
(1) attest that they have entered into a labor peace agreement and that they will abide by the terms of the agreement, and provide a copy of the agreement to the Bureau, or
(2) provide a notarized statement indicating the applicant will enter into and abide by the terms of the labor peace agreement.

ADDITIONAL REQUIREMENTS BY LICENSE TYPE

Distributor License – Arrange for testing, check for appropriate packaging and labeling, collect taxes, transport cannabis and cannabis products, and may act as a wholesaler. All transportation shall be conducted by distributor licensees and their direct employees.

- Cannabis and cannabis products must pass through a distributor prior to being sold to customers at a retail establishment.
- Distributors must arrange for the laboratory testing and quality assurance for cannabis and cannabis products.
- Distributors may package and label cannabis (dried flower) but may not package cannabis products pursuant to the distributor license.

Distributor Transport-Only License – A distributor can choose to be a Transport Only Distributor, which transports only its own cannabis and cannabis products, or transports for other licensees, but does not perform any of the other functions of a distributor. Transportation to retail licensees is prohibited by this type of license, unless the licensees are transporting immature plants and seeds from a nursery to a retailer.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

Additional Transport Requirements for All Distributors

- Cannabis goods may only be transported in a vehicle or trailer, must not be visible from outside of the vehicle, and must be kept in a locked box, container, or cage that is secured to the commercial vehicle or trailer.
- Transport vehicles must be equipped with alarm systems and remain secure at all times.
- Packages or containers holding cannabis goods may not be tampered with, or opened during transport.
- No vehicle or trailer containing cannabis goods shall be left unattended in a residential area or parked overnight in a residential area.
- All transports must have a shipping manifest with specific information about the cannabis and cannabis products being transported. The shipping manifest must identify the licensee shipping, the licensee transporting, and the licensee receiving the shipment.

Retailer License – Sell cannabis and cannabis products to customers, often referred to as dispensaries.

- Retailers are not allowed to package or label cannabis or cannabis products on the premises. All cannabis or cannabis products sold at a retailer must be packaged and labeled before arriving at the retail premises, except during the transition period.

- Retailers may only sell and deliver cannabis goods between the hours of 6 a.m. and 10 p.m.
- Before leaving the retail premises, cannabis purchases must be placed in an opaque exit package.
- Deliveries must be made in person by a direct employee of the licensee to a physical address within the State of California.
- Delivery vehicles may not contain more than \$3,000 of cannabis product at any time. The retailer must be able to immediately locate all delivery vehicles.

Microbusinesses License – Microbusiness licensees must engage in at least three of the following commercial cannabis activities: cultivation (less than 10,000 square feet), manufacturing (Level 1, Type 6), distribution, and retail.

- A holder of a microbusiness license may only engage in the commercial cannabis activity requested in the license application and approved by the Bureau. If a microbusiness licensee wants to engage in additional commercial cannabis activity after the license is issued, the licensee shall submit an application to the Bureau identifying the requested changes and providing all information required for an application for the commercial cannabis activity the licensee wants to conduct.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- Licensees will be required to comply with the rules and regulations applicable to the commercial cannabis activities the microbusiness is conducting.

Testing Laboratory License – Test cannabis and cannabis products.

■ Provisional Testing Laboratory License

- Testing laboratories that meet all other requirements, but are awaiting ISO (the joint technical committee of the International Organization for Standardization and the International Electrotechnical Commission) 17025 accreditation may obtain a provisional license.
- Provisional licenses expire 12 months after issuance.
- The Bureau may renew the provisional license for an additional 12 months if the laboratory's ISO 17025 accreditation application is still pending.

■ Sampling

- Laboratory personnel will take samples from harvest batches and cannabis product batches to be tested. Harvest batches may not exceed 50 pounds. Samples collected from batches weighing more than 50 pounds will be deemed invalid.
- Samplers must follow requirements pertaining to minimum sample sizes, minimum sample increments, transportation and storage of samples, and documentation of all sampling activity.

- Samples received by a laboratory that do not adhere to the requirements will be rejected.

■ Tests Performed

- Testing laboratories will be required to perform testing on cannabis goods to measure the following:
 - ◆ Cannabinoids;
 - ◆ Foreign material;
 - ◆ Heavy metals;
 - ◆ Microbial impurities;
 - ◆ Mycotoxins;
 - ◆ Moisture content and water activity;
 - ◆ Residual pesticides;
 - ◆ Residual solvents and processing chemicals; and
 - ◆ Terpenoids.
- Edible cannabis products that contain more than one serving per unit will be tested for homogeneity to ensure consistent concentrations of tetrahydrocannabinol (THC) or cannabidiol (CBD).

■ Certificate of Analysis

- After testing is completed, the laboratory will generate a certificate of analysis that contains the results of the testing and whether the tested batch passed or failed.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- Batches that pass testing may be sold to customers via retailers.
- Harvest batches or cannabis product batches that fail testing may be additionally processed for remediation, with the exception of edibles. A batch may only be remediated twice. If the batch fails after a second remediation attempt and second retesting, the entire batch shall be destroyed.

■ **Quality Assurance and Quality Control**

- Testing laboratories are required to develop and implement a quality assurance program that is sufficient to ensure the reliability and validity of the analytical data produced by the laboratory.

■ **Phase-In of Required Types of Testing**

- The required tests for cannabis will be phased in throughout 2018.
- Cannabis harvested on or after January 1, 2018, and cannabis products manufactured on or after January 1, 2018, will be tested for potency, contaminants with a high public health risk, and contaminants that the industry is largely already testing for.
- Cannabis harvested on or after July 1, 2018, and cannabis products manufactured on or after July 1, 2018, will be tested for moderate relative health risks compared to the group above and contaminants that are currently largely not tested for.

- Cannabis harvested on or after December 31, 2018, and cannabis products manufactured on or after December 31, 2018, minor relative health risks compared to the group above and contaminants that are seldom or not tested for.

TRANSITION PERIOD

- To support a smooth transition of businesses into a newly regulated market, beginning January 1, 2018 and before July 1, 2018, licensees may do the following:
 - Conduct business with other licensees irrespective of the M or A designation on their licenses.
 - Transport cannabis goods that do not meet the labeling requirements (prescribed by MAUCRSA or the California Department of Public Health) if a sticker with the appropriate warning statement is affixed.
 - Sell cannabis goods held in inventory that are not in child-resistant packaging if they are placed into child-resistant packaging by the retailer at the time of sale.
 - Sell cannabis products that do not meet the THC limits per package established by the State Department of Public Health.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- Sell and transport cannabis goods that have not undergone laboratory testing if a label stating that they have not been tested is affixed to each package containing the goods prior to transport by a distributor or prior to sale if held by a retailer.
- Individually package and sell dried flower held in inventory by a retailer at the time of licensure.
- Cannabis products held in inventory by a retailer that do not meet the requirements set by the State Department of Public Health for ingredients or appearance may be sold by a retailer.

- **Beginning January 1, 2018, licensees shall not transport or sell any edible cannabis product that exceeds 10 milligrams per serving. Adult-use products may not exceed 100 milligrams per package; however, medicinal cannabis products may exceed 100 milligrams per package.**

ENFORCEMENT

■ Right of Access

- Licensees shall provide the Bureau's investigators, compliance monitors, agents, or employees full access to enter licensed premises; and inspect cannabis or cannabis products in the licensee's possession.

- Review and copy any materials, books, or records in the licensee's possession.
- Failure to cooperate and participate in the Bureau's investigation may result in a licensing violation subject to discipline.
- Prior notice of investigation, inspection, or audit is not required.

■ Notice to Comply

- The Bureau may issue a written notice to comply to a licensee for minor violations of MAUCRSA or its implementing regulations, observed during an inspection.
- The notice to comply will describe the nature and facts of the violation, including a reference to the statute or regulation violated, and may indicate the manner in which the licensee must correct the violation to achieve compliance.
- Within 15 calendar days, the licensee may sign and return the notice to comply, declaring under penalty of perjury that the violation was corrected and describing how compliance was achieved. Failure to do so may result in a disciplinary action.

■ Minor Decoys

- Peace officers may use a person under 21 years of age to attempt to purchase cannabis goods to ensure that licensees and their employees are not selling cannabis goods to minors.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

■ Disciplinary Actions

- The Bureau may take disciplinary action against any license by way of revocation, suspension, fine, restrictions upon any licensee, or any combination thereof.
- The assessed penalty shall take into consideration: the nature and severity of the violation; evidence that the violation was willful; history of violations of the same nature; the extent to which the person or entity has cooperated with the Bureau; the extent to which the person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation; and the extent to which the conduct is a public nuisance or danger to public safety.
- Any Bureau accusation recommending disciplinary action will be served on the licensee and a hearing will be conducted to determine if cause exists to take action against the licensee.

- An accusation may be terminated by written stipulation at any time prior to the conclusion of the hearing on the accusation.

■ Citations and Notices to Comply

- The Bureau may issue citations containing orders of abatement and fines to a licensee or unlicensed person in writing.
- The Bureau may issue a notice to comply to a licensee for violations of the act or regulations observed during an inspection. The licensee may within 15 calendar days return the notice indicating the violation was corrected and how compliance was achieved.

CDFA Cannabis Cultivation Regulations at a Glance

LICENSING

- **License Application Fees.** CDFA will charge a one-time fee to review an annual cultivation license application. Application fees are scaled based on the average annual production of the license type and range from \$135 to \$8,655.
- **Annual License Fees.** The license fee schedule has been updated based on an economic analysis of CDFA costs. License fees are scaled based on the average annual production of the license type and range from \$1,205 to \$77,905.
- **Temporary Licenses.** Applicants must present a local permit, license, or authorization to be considered for a temporary license, which will allow cultivation before an annual license is issued.
- **Processor License.** An additional license type not included in the original statute has been added for processors, permitting them to trim, dry, cure, grade, and package cannabis. Processors may not grow cannabis under their license.

TRACK-AND-TRACE SYSTEM

- **Track-and-Trace System/Requirements.** Covers the requirements for licensees and/or designated track-and-trace account managers, including training, registration, plant tagging, and inventory tracking. The track-and-trace system will record the movement of cannabis and cannabis products through the state's supply chain—from cultivation to sale.
- **Applicant Track-and-Trace Training Requirement.** Requires applicants to complete a training session for the track-and-trace system within 10 days of receiving notice that their complete application has been received and approved by CDFA.

RESOURCE MANAGEMENT

- **Cannabis Waste Management.** Requires licensees to comply with current state waste-management laws and include requirements for on-site composting, using a waste hauler, or self-hauling.
- **Renewable Energy Requirements.** Renewable energy requirements allow a phase-in period. Beginning in 2022, licensees will need to provide details regarding energy use and sources. Beginning in 2023, licensees must meet the average electricity greenhouse-gas-emissions intensity required of their local utility provider.

- **Generator Requirements.** Specifies allowable generator types and use restrictions. For example, generators rated at 50 horsepower or greater must demonstrate compliance with California Airborne Toxic Control Measures. Generators rated below 50 horsepower will have to meet compliance measures by 2023.

INSPECTIONS/VIOLATIONS

- **Inspections, Investigations, and Audits.** All inspections, investigations, and audits of the licensed premises shall be conducted during standard business hours or at a time mutually agreed to by the Department and the licensee. For the purposes of this section, standard business hours are 8:00am–5:00pm (Pacific Standard Time). Prior notice of inspection, investigation, or audit is not required.
- **Record Retention/Sales Invoice or Receipt Requirements.** Governs the maintenance of records and sales invoices for licensees.
- **Licensing Actions.** Enforcement actions may be taken for any violation(s) of license conditions or requirements. If the licensee holds multiple cultivation licenses, the Department may take any one of, or a combination of, the following actions for all of the licensee’s cultivation licenses:
 - Revocation;
 - Suspension for a specified period of time;
 - Issuance of a probationary license with terms and conditions; and
 - Order an administrative hold of cannabis and nonmanufactured cannabis products.
- **Administrative Fines.** Violation Classes: MINOR (Fine range: \$100 to \$500); MODERATE (Fine range: \$501 to \$1,000); SERIOUS (Fine range: \$1,001 to \$5,000). Repeat violations may result in an escalation of the violation class.
- **Administrative Hold Procedure.** Details procedures for establishing administrative holds on cannabis and nonmanufactured cannabis products.

EMERGENCY REGULATIONS

SUMMARY FOR CANNABIS MANUFACTURING



The California Department of Public Health (CDPH) is one of three state licensing authorities charged with licensing and regulating commercial cannabis activity in California. CDPH is responsible for regulation of the *manufacturing* component of the industry, which it will do through the Manufactured Cannabis Safety Branch.

In November 2017, CDPH released Emergency Regulations that outline the standards and licensing procedures for both medicinal and adult-use commercial cannabis manufacturing and products. These replace the medicinal regulations released in April 2017 developed in response to previous versions of state law.

Key Components of Cannabis Manufacturing Emergency Regulations

Temporary Licenses

CDPH will issue temporary licenses that allow a business to engage in commercial cannabis activity. Once issued, these licenses will be valid for 120 days and may be extended for additional periods of 90 days, if the business has submitted a complete annual license application. The application will be available on the CDPH website and can be submitted by mail or email. City or county authorization to conduct commercial cannabis activity must be submitted with the temporary license application. Once the application is received, CDPH will contact the city or county to verify the local authorization, and the office will have 10 days to respond. There is no fee for the temporary license.

Annual Licenses

Applications for annual licenses will be accepted through an online licensing system that will launch in December 2017. This application will require information on the business, owners and financial interest holders, and operating premises, as well as descriptions of procedures for waste disposal, inventory and quality control, transportation and security. Businesses in operation under the Compassionate Use Act prior to September 1, 2016, will receive priority application review. Applicants must be in compliance with city or county ordinances. During the application review process, CDPH will contact the city or county to verify the local authorization. If the applicant does not provide a copy of their local authorization, the local office will have 60 days to respond. If the applicant includes a copy of their local authorization with their application, the local office will have 10 days to respond.

License Categories & Types

Anyone conducting commercial cannabis manufacturing must obtain a license from CDPH. Each license issued will have one category and one type.

The two license categories are:

A-License

Cannabis products for sale in the adult-use market

M-License

Cannabis products for sale in the medicinal market

A business may hold both M- and A-Licenses at the same premises as long as separate applications are completed.

The four license types are:

Type 7

Extraction using volatile solvents (ex: butane, hexane, pentane)

Type 6

Extraction using a non-volatile solvent or mechanical method (ex: food-grade butter, oil, water, ethanol, or carbon dioxide)

Type N

Infusions (ex: using pre-extracted oils to create edibles, beverages, capsules, vape cartridges, tinctures or topicals)

Type P

Packaging and labeling only

Operational Requirements

Licensees must have written procedures for inventory control, quality control, transportation, security and cannabis waste disposal. Descriptions of these procedures or Standard Operating Procedures (SOPs) must be submitted with the annual license application. Cannabis waste cannot be sold, must be placed in a secured area and be disposed of according to applicable waste management laws.

Good manufacturing practices must be followed to ensure production occurs in a sanitary and hazard-free environment, cannabis products are contaminant free and THC levels are consistent throughout the product and within required limits.

Extractions using CO₂ or a volatile solvent must be conducted using a closed-loop system, certified by a California-licensed engineer. Volatile, hydrocarbon-based solvents must have at least 99% purity. Finally, volatile solvent, CO₂ and ethanol extractions must be certified by the local fire code official.

Product Standards and Prohibited Products

Products cannot be infused with nicotine or alcohol or have added caffeine. Edible products cannot be shaped like a human, animal, insect, or fruit. Some potentially-hazardous foods, such as meat and seafood, and other products requiring refrigeration, are prohibited for sale as cannabis products. Juice and dried meat made in accordance with requirements are allowed. Perishable ingredients, such as eggs and milk, may be used as long as the final product meets regulatory standards.

THC Limits

Edible products are limited to a maximum of 10 mg of THC per serving and 100 mg of THC per package. Other cannabis products, such as tinctures, capsules and topicals, are limited to a maximum of 1,000 mg per package for the adult-use market and 2,000 mg of THC per package for the medicinal-use market.

Packaging & Labeling

Cannabis product packaging cannot resemble traditionally available food packages, and edibles packaging must be opaque. All manufactured products must be packaged before they are released to a distributor. In addition to these requirements, statute requires that cannabis product packaging not be attractive to children and be tamper-evident, re-sealable if the product includes multiple servings, and child-resistant.

Cannabis product labels must include an ingredient list, some nutritional facts and the CDPH-issued universal symbol. The label may not refer to the product as a candy. In addition to these requirements, statute requires that labels not be attractive to individuals under age 21 and include mandated warning statements and the amount of THC content.

Annual License Fees

Application Fee – Processing fee of \$1,000.00 per license

License Fee – Scaled according to the gross annual revenue of the licensed premises. These fees are intended to cover costs of administering the manufactured cannabis safety program and range from \$2,000 to \$75,000.

Transition Period

The state licensing authorities have established a transition period, from January 1 until July 1, 2018, to support a smooth transition into a newly regulated market. During this period, product will be allowed to move between A- and M-licensees. Products manufactured prior to January 1, 2018, can be packaged in secondary packaging that is child resistant, and stickers may be used for the government warning statement and amount of THC/CBD per serving. All products manufactured on or after January 1, 2018 must meet THC limits and product restrictions.

Shared Manufacturing Facilities

CDPH is currently developing an additional license type, Type S, which will allow businesses to share facility space. This license type will reduce barriers to entry into the legal, regulated market and ensure that cannabis products are manufactured in clean, regulated facilities. This license type should be ready to be issued in early 2018.

Other Laws to Know:

California Business & Professions Code – Includes requirements set forth by MAUCRSA

Emergency Regulations released by the Bureau of Cannabis Control – Includes specific requirements for retailers, distributors, third-party testing laboratories and microbusinesses

Emergency Regulations released by the CalCannabis Cultivation Licensing – Includes specific requirements for cultivators and the track-and-trace system

Your Local City or County Ordinances

California Department of Public Health
Manufactured Cannabis Safety Branch

www.cdph.ca.gov/mcsb mcsb@cdph.ca.gov
www.cannabis.ca.gov

